United Nations S/2005/92

# Security Council

Distr.: General
22 February 2005

Original: English

## Letter dated 11 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 19 October 2004 (S/2004/834). The Counter-Terrorism Committee has received the attached fourth report from Slovakia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

05-26060 (E) 120405

## Annex

### Letter dated 10 February 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Slovakia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In reply to your letter dated 8 October 2004, I have the honour to forward the fourth report of Slovakia submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

I would like to reiterate my Government's appreciation for the work of the Committee, as well as for the close and constructive cooperation. Slovakia stands ready to provide the Committee with any further information that may be necessary or requested.

(*Signed*) Klára **Novotná**
Ambassador
Chargé d'affaires a.i.

## 1. Implementation of measures

### Ad 1.1.

Regarding the question of effective criminalization of the financing of terrorism:

Paragraph 1 (b) of Resolution 1373 (2001) reads: "...all States shall criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts".

According to the opinion of the CTC concerning criminalization of the financing of terrorism, provisions of Sections 7 and 10 of the Slovak Criminal Code do not meet the stipulations for effective implementation of paragraph 1 (b) of the Resolution, and the stipulations of the International Convention on the Suppression of Terrorism, and the financing of terrorism is not established as a separate criminal offence *per se*. In this connection we point to the fact that the provisions of Sections 7 and 10 of the Slovak Criminal Code, which concern the preparation for and participation in a criminal offence, are applicable to particularly serious criminal offences (including terrorism, setting up, masterminding or supporting a criminal or a terrorist group, etc.), and although the financing of terrorism is not established as a separate criminal offence, the provisions of Sections 7 and 10 do fulfil the requirement of effective implementation of both paragraph 1 (b) of the Resolution and of the International Convention on the Suppression of Terrorism.

Section 7 stipulates that even preparation of a crime is a punishable offence, and defines the punishment for the persons involved; thus, also as regards the financing of terrorism, any activity involving the acquisition or adaptation of means or instrumentalities that are to be used to commit a particularly serious criminal offence, associating, teaming up, aiding or abetting to commit such crime, or any other deliberate creation of conditions for its commission constitute a punishable offence. As regards criminal attempts or completed crimes, Section 10 criminalizes participation in a crime not only when it has the form of organising or instigating a crime, but also when it has the form of abetting a crime, mainly by procuring the instrumentalities for committing the crime, eliminating obstacles, counselling, reinforcing the criminal intent, or promising to contribute to the commission of crime.

In addition, we point to Section 185a paragraph 2 of the Slovak Criminal Code (setting up, masterminding or supporting a criminal or a terrorist group), which criminalizes not only the setting up, masterminding or membership in a terrorist group, but also any other activity carried out for the benefit of to support such group.

All the above provisions of the Criminal Code implicitly criminalize any act involving the use of financial means to commit the acts of terrorism, i.e. individual stages of the commission of criminal acts – preparation for a crime, attempt at a crime, completed crime, or participation in a crime.

According to the UNODC documents, this fact alone sufficiently meets the stipulations regarding criminalization in the International Convention for the Suppression of the Financing of Terrorism (UN Legislative Guide to the Universal Anti-terrorism Conventions and Protocols, 8th May 2003).

The fact that Sections 7 and 10 of the Criminal Code criminalize the financing of terrorism was also recognised in the final report of CTC expert advisers, Terrorism Prevention Branch, Division for Treaty Affaires of 21 October 2003, drawn up in the framework of legislative assistance provided by the UNODC to the Slovak Republic with a view to establishing effective criminalization of the financing of terrorism. The report states, *inter alia*:

"The Slovak Republic is party to all twelve universal instruments against terrorism. The participants jointly concluded that the Slovak legislation was in general compliance with the requirements of these instruments. The following was also noted during a very positive exchange of information and experiences between the UNODC officers and the representatives of the Slovak Republic:

- Offences established by the universal anti-terrorism instruments are covered by Articles 93, 93(a), 94, 185(a)(2) of amended Criminal Code of the Slovak Republic.
- Suppression of the financing of terrorism: Criminalization of this act is included under the provision on the preparation of the criminal offence in the amended Criminal Code (Art. 7 – collection of funds for a terrorist act means preparation for a criminal offence and Art. 10 – provisions of funds for a terrorist act or procuring the means to aid this act). For UNODC it means that this offence is not established as a separate offence in the Slovak Criminal Code, but is covered by Sections 7 and 10 of the Code. ...
- The UNODC will report to the Counter Terrorism Committee and to the Council of Europe on the results of the workshop."

The report was explicitly mentioned also in the 3rd report of the Slovak Republic to which it was annexed.

In our view, the report provides an adequate answer to the question concerning the criminalization of the financing of terrorism.

Paragraph 2(e) of the Resolution requires the States to criminalize not only the financing of terrorism, but also planning and all forms of supporting terrorism, i.e. including the recruitment to terrorist groups, supply of weapons, access to computer technology, maintaining contacts, etc. and, in paragraph 3(d), urges the States to adhere to the twelve international conventions and protocols relating to terrorism. Nine of them formulate special requirements concerning the criminalization of various forms of participation in special forms of terrorism. It is not necessary to establish dozens of separate criminal offences to cover all the forms of preparation of and participation in a crime, including the financing of terrorism and recruitment. All of them already constitute punishable offences under the aforesaid provisions of Section 7, Section 10, and Section 185a paragraph 2, ever since the criminalization of specific forms of terrorism entered into effect; no impediment in the form of the prohibition of retroactive effect applies to the new proposed forms of participation in the already punishable forms of terrorism.

In connection with the issue of effective criminalization of the financing of terrorism and progress made by the Slovak Republic in this area, we also draw attention to the draft recodification of the Criminal Code, which transposes all the existing as well as possible future international criminal law conventions; according to the proposed recodification, the financing of terrorism is a punishable offence. The draft recodification has already been discussed by relevant parliamentary committees and the Parliament is expected to vote on it in January or February 2005.

The draft recodification of the Criminal Code was prepared by a group of independent experts on criminal law and international criminal law; their final proposal takes over, *inter alia*, the provisions concerning the criminal offence of terrorism and criminalization of the financing of terrorism from the Criminal Code currently in force, i.e. current provisions of Sections 94, 7, 10, and Section 185a paragraph 2. They are based on the continental concept of the preparation for and participation in a criminal offence, respected for instance also in Article 5 of the UN Convention against Transnational Organised Crime.

The next step was to extend, with effect from 1 August 2004, the definition of the crime of terrorism in Section 94 of the Criminal Code. This extension was instigated by new demands formulated by the European Union. As from the same date, i.e. 1 August 2004, doubts were eliminated also as regards interpretation of the provision of Section 73 of the Criminal Code concerning forfeiture of a thing. Thus, judicial authorities no longer "may" but are "obliged to" order forfeiture of a thing if the circumstances of the case warrant a reasonable assumption that it could be used to finance terrorism.

Consequently, the courts are obliged to apply this provision also to punish the financing of terrorism as provided for in the Slovak Criminal Code.

At the same time, new paragraph 3 Section 73 provides that the funds derived from such forfeitures can be utilized to compensate the victims of terrorist crimes rather than being put at the disposal of the State. This step was taken in response to Article 8 paragraph 4 of the International Convention for the Suppression of the Financing of Terrorism.

**Ad. 1.2**

The Slovak Republic organises training courses, seminars, workshops and study periods to staff members of the Intelligence Unit of Financial Police, whose aim is to provide training and counselling on the typology of terrorist methods and the trends of the fight against terrorist methods and the financing of terrorism, and on the methods of tracing the proceeds of crime or the assets that are to be used to finance terrorism with a view to their freezing, seizure or confiscation, with the help of a number of international institutions in this area (EUROPOL, OLAF, Dutch police, Centre for International Cooperation under a PHARE project, etc.). These courses and programmes are usually organised *ad hoc*.

**Ad. 1.3**

According to the provisions of Section 4 paragraph 1 of Police Force Act No. 171/1993 Coll. as amended, services of the Police Force include judicial police, criminal police, financial police, public order police, traffic police, security of buildings and facilities, alien police, border police, SWAT police, protection of designated persons, and inspection service; the organisational structure of the Police Force includes also the Criminal Expertise Institute.

The issues that are related to the financing of terrorism fall under the competence of financial police which, after the reorganisation of the Police Force effective from 1 January 2004, is part of the structure of the Bureau of the Fight against Organised Crime, namely its units:

- financial police intelligence unit,

- financial police departments, divisions for the fight against organised crime Bratislava, West, Centre, East.

The abovementioned Act also covers the staffing of the Police Force; the staffing quotas are determined by the Government of the Slovak Republic. The Police Force is allocated funds for its technical equipment and operation through the budgetary chapter of the Ministry of the Interior in the law on the State budget, approved annually by the National Council of the Slovak Republic.

Personnel (human resources), equipment, and operating costs of financial police are provided from the resources of the Ministry of the Interior. Given the scope of the tasks that arise for the financial police service from the national legislation and from international treaty instruments, its staff numbers should be increased. As regards the necessary technical support, this issue is currently dealt with under a PHARE project.

**Ad. 1.4**

The following unusual transactions were identified in 2004 pursuant to Act No. 367/2000 Coll. on the protection against laundering of the proceeds of crime:

**Intelligence Unit of the Financial Police**

| | Number | Financial amount |
|---|---|---|
| reported unusual transactions | 818 | approx. SKK 19.916 billion |
| criminal prosecution launched | 20 | SKK 46,398,511 |

**Other financial police units***

| | Number | Financial amount |
|---|---|---|
| reported unusual transactions | do not receive | 0 |
| criminal prosecution launched | 126 | approx. SKK 14.560 billion |

* financial police sections within organised crime departments of the Office for the Fight against Organised Crime

| reported unusual transactions | Number |
|---|---|
| analysed | 818 |
| referred for investigation – prosecution | 146 |
| charges, indictment, sentencing | not recorded |

Moreover, Bank Act No. 483/2001 Coll. as amended requires the banks and branches of foreign banks to submit the Ministry of Finance, within a determined time limit, the lists of clients who are subject to international sanctions imposed under Act No. 460/2002 Coll. on Implementing International Sanctions to Safeguard International Peace and Security. The list of sanctioned entities is attached as annex to Ordinance No. 707/2002 Coll. of the Slovak Government on international sanctions to safeguard international peace and security.

In pursuance of Section 91 paragraph 8 of the Bank Act, in July 2004 the Ministry of Finance instructed the banks and branches of foreign banks to notify the Ministry about their clients who belong to sanctioned persons not later than within three working days from the date of ascertaining this fact, and to submit complete lists of such clients to the Ministry on a quarterly basis, including clients' account numbers and outstanding balance.

One sanctioned person was identified in 2004 on the basis of notifications from banks (the Slovak Republic possesses details concerning the name of the sanctioned person, balance of his SKK account and of his EUR account).

**Ad. 1.5**

No special organisational structures have been put in place as yet in the Slovak Republic to coordinate the fight against terrorism. Certain tasks in this area shall be outlined in the National Action Plan for the Fight against Terrorism; the Plan will, *inter alia*, include the introduction of a mechanism for coordination, exchange and analysis of information between intelligence services and other entities involved in the fight against terrorism. The objective of this mechanism is to facilitate optimisation of information flows, foster a closer cooperation and collaboration between terrorism-fighting entities, and make joint analyses.

At this time, no uniform analysis is being made at the national level in Slovakia of terrorist threats with the involvement of all relevant security bodies of the Slovak Republic. The Slovak Intelligence Service provides statutory recipients with information and analyses of terrorist threats and risks, assessed on the basis of concrete developments in the security situation in Slovakia and the world, and also provides them periodic analytical assessments.

The Slovak Intelligence Service and the Department for the Fight against Terrorism (operating within the Police Force's Office for the Fight against Organised Crime, hereinafter referred to as "DFT") gather operational intelligence about the activities of selected risk communities of aliens and of individuals from the domestic environment who could potentially provide ideological, logistic or material support out of the territory of Slovakia to terrorist and militant organisations in their home and third countries. The risks are assessed mainly on the basis of the degree of organisation and radicalism of these entities. They also cover the activities of suspicious commercial companies and individuals involved in illegal trading in arms and weapon components.

The Slovak Intelligence Service and the DFT, in addition to providing information to the statutory recipients in the Slovak Republic, regularly provide operational and analytical intelligence on terrorism and other related phenomena in the framework of international exchange of information. They cooperate mainly with partner intelligence and police services abroad, and also as part of the working group against terrorism within the EU Council and EUROPOL.

- Criminal investigation and prosecution fall under the competence of the Ministry of the Interior (namely the Office for the Fight against Organised Crime created within the Police Force Presidium – DFT and SJFP), and of the office of special court and special prosecutor.

- Anti-terrorist intelligence activities fall under the competence of the Slovak Intelligence Service, the Military Intelligence Service and the Military Defence Intelligence.

- Physical protection of potential terrorist targets falls under the competence of the Police Force (office for the protection of constitutional officers, public order police)

- The Slovak Intelligence Service and the DFT prepare independent strategic analyses and forecasts of emerging threats. The DFT submits annual reports on the situation in the fight against terrorism in the territory of the Slovak Republic to the Government.

- Effectiveness of anti-terrorist legislation and relevant changes and amendments are analysed and evaluated separately by individual entities involved in the fight against terrorism; nevertheless, the legislative framework as a whole can be considered as meeting all the standards laid down in the EU and other international conventions.

□ Border and immigration checks to prevent trafficking in drugs, weapons, biological and chemical weapons, precursors and unlawful use of radioactive materials fall under the competence of the Police Force (National Drug Unit and the crime detection department of the Office for the Fight against Organised Crime) which cooperates with customs authorities, and of the National Unit for the Fight against Illegal Migration working in conjunction with the Office of Border and Alien Police.

**Ad. 1.6**

The Police Force's Department for the Fight against Terrorism is member of the Police Working Group on Terrorism (PWGT). The encoding system enables immediate sharing of operational information concerning terrorist activities and persons suspected of links to terrorism. PWGT liaison officers meet twice a year to consider in detail the situation in individual countries, new trends in the fight against terrorism, and new *modus operandi* of suspicious entities.

The Slovak Republic is also member of the Working Group on Terrorism (WGT) at the EU Council and of Europol. The Slovak Republic takes part in the preparation of analyses of threats within the EU, in the drafting of common European legislation, and in the elaboration of other strategic documents. The Slovak Intelligence Service is member of the CTG – counter terrorism group of security services.

The Slovak Republic fulfils all its counter-terrorism and counter-extremism obligations that arise from its membership in the EU and NATO. Staff members of individual services participate in the conferences and seminars on the topics of terrorism and extremism, and use these forums to exchange information and findings on new trends in the recruitment to terrorist organisations, on the links and ties between terrorism and organised crime.

**Ad 1.7.**

The use of special investigative methods is authorised in Slovakia in terrorism-related cases. Thus, the security service – the Slovak Intelligence Service – has the power to use special information gathering means to perform its tasks prescribed by law. Their use is regulated by law. Such special means include the means for gathering operational data (surveillance of persons and things, legalisation documents, cooperating persons) and the means of electronic surveillance whose use is provided for in Act No. 166/2003 Coll. on the protection of privacy from unauthorised use of the means of electronic surveillance.

The means of electronic surveillance include, in particular, electrotechnical, radiotechnical, phototechnical, optical, mechanical, chemical and other means, devices or their sets covertly used to trace, open, examine and evaluate postal consignments and other deliveries, to intercept and record telecommunications activities, to create or use video, audio or other recordings. Under the law, the means of electronic surveillance can be used, besides the Slovak Intelligence Service, also by the Police Force, the Military Intelligence Service, the Railway Police, the Corps of Prison and Court Guard, and the Customs Administration in conformity with separate legal provisions.

The law limits the use of electronic surveillance means to where this is necessary in a democratic society to safeguard the security of the State, to secure the defence of the State, to prevent and clarify crime, and to protect the rights and freedoms of others, i.e. including in the monitoring of persons involved in terrorist activities. These means can be used only subject to a prior written authorisation by the lawful judge, and only for as long as it is necessary, but for not more than six months. The lawful judge who has authorised the use of the means of electronic surveillance can, on a new motion, extend the aforesaid period by a maximum of another six months that start running as from the date of new authorisation.

Moreover, the means of electronic surveillance can also be used in criminal proceedings according to Act No. 141/1961 Coll. on Criminal Proceedings (Code of Criminal Procedure) as amended.

Special investigative techniques can be used in the area of cooperation between the Slovak Republic and other countries on the basis of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000, which is in the process of ratification by the Slovak Republic, the UN Convention against Transnational Organised Crime of 15 November 2000, and the second additional protocol to the European Convention on Mutual Assistance in Criminal Matters, which was approved by Resolution of the National Council of the Slovak Republic of 25 June 2004, and for which the Slovak Republic will deposit its instruments of ratification in the near future.

The Slovak Republic has, however, made the following reservation concerning the second additional protocol: "The Slovak Republic avails itself of the right set out in Article 33 paragraph 2 of the second additional protocol not to accept Articles 16, 17, 19 and 20 of the Protocol in their entirety. The Slovak Republic shall execute the requests made according to Article 18 of the second additional protocol only insofar as they concern the monitoring of import, export or transit of a delivery, if the circumstances of the case warrant a reasonable assumption that the delivery contains unauthorised narcotic drugs, psychotropic substances, precursors, nuclear or other similar radioactive materials, counterfeit money, counterfeit securities, firearms or weapons of mass effect, ammunition and explosives, and if the requesting party offers its guarantee to adequately protect information received by means of legal assistance."

**Ad 1.8.**

In order to bring terrorists and their supporters to justice, the Slovak Republic adopted several measures with a view to the protection of targets that are vulnerable to terrorist attacks.

For instance, the amendment to Section 1 of Witness Protection Act No. 256/1998 Coll. as amended provides, with effect from 1 December 2003, that the entire system of the protection of witnesses and/or of cooperating defendants shall, in conformity with the Council of Europe standards, apply also to terrorism and other criminal offences if committed by an organised group, a criminal group, or a terrorist group.

The Code of Criminal Procedure lays down various witness protection measures such as keeping the identity of witness secret, changing the witness' identity, witness' examination without the defendant being present, examination using audio or videorecording equipment, right of witnesses to be informed about the defendant's release from custody, from prison, or escape. The injured party (victim) is granted the right to receive the same kind of information and the court must, as appropriate, take steps to prevent a meeting between the defendant and the victim in the courthouse. The court may order that the main trial be held in camera in order to protect the victims and their close persons.

The bodies competent to hear terrorism-related cases are the Special Court and the Special Prosecutor's Office. Amendments to Act No. 335/1991 Coll. on Courts and Judges and to Act No. 153/2001 Coll. on Public Prosecution contain specific provisions concerning the right to the protection of persons in the performance of their duties. The duties of the Police Force were expanded accordingly in Act No. 171/1993 Coll.

Witness protection measures can be used also in cooperation with or on a request from another State.

Moreover, the Slovak Republic introduced administrative measures in this field by Government Resolution No. 1137 of 6 December 2001, which introduces a set of measures to implement the EU Action Plan against Terrorism in the context of the Slovak Republic.

In the area of cooperation with other States, the protection of witnesses may be ensured in conformity with the second additional protocol to the European Convention on Mutual Assistance in Criminal Matters of 8 November 2001, and the United Nations Convention against Transnational Organised Crime of 15 November 2000; the latter can apply also to the provision of assistance and protection to the victims of crime.

**Ad. 1.9**

No persons were prosecuted in 2004 in Slovakia on the grounds of suspected terrorist activities, financing of terrorism, recruitment for terrorist organisations, or supporting terrorists or terrorist organisations.

**Ad. 1.10**

Criminal liability of legal persons will be provided for in the recodified Criminal Code. The current stage of the legislative process is specified in Ad 1.1.

The proposed scope of criminal liability of legal persons corresponds to the European standard. The draft legislation submitted to Parliament extends this liability also to the criminal offences of terrorism, including the preparation of and participation in such crimes.

**Ad. 1.11**

No licence has been cancelled or withdrawn to date in the Slovak Republic in connection with imports, intra-Community transport or exports of military material, civilian weapons or other sensitive goods on the grounds of assistance to terrorists or terrorist organisations by the holders of such official authorisations.

**Ad. 1.12**

**A)**

The area of plastic explosives (for civilian use) and of industrial explosives and their precursors is provided for in the following legislation:

I. Act No. 51/1988 Coll. on Mining, Explosives and the State Mining Administration as amended, in conjunction with Decree No. 71/1988 Coll. on Explosives as amended.

II. Act No. 264/1999 Coll. on Technical Requirements for Products and Conformity Assessment in conjunction with Government Ordinance No. 179/2001 Coll. setting out the details of technical requirements and conformity assessment procedures regarding explosives for civilian uses.

**I.** The application of the law on mining activities, explosives and the State mining administration is in the competence of the Chief Mining Authority. In connection with the prevention of the manufacture, stockpiling, transfer or auctioning of unmarked or improperly marked plastic or other explosives, the Slovak Republic gave an undertaking to carry out the tasks arising from the Convention on Marking of Plastic Explosives for the Purpose of Detection Purposes, laying down an obligation to mark all plastic explosives supplies with a detection agent enabling easy detection of the explosive. The objective of the Convention adopted on 1 March 1991 (it took effect for the Slovak Republic by succession on 20 March 1995) is to prevent abusing explosives for terrorist purposes, especially those

targeting aircraft. The Convention was transposed to the national legislation with effect from 1 November 2004 in Section 24 paragraph 2 of Act No. 51/1988 Coll. on Mining, Explosives and the State Mining Administration. Based on Section 24 paragraph 3 of the aforesaid law, the envisaged amendment of Decree No. 71/1988 Coll. on Explosives as amended will define detection agents that will be in conformity with Part 2 of the Montreal Convention: Detection Agents. The placing on the market of imported plastic explosives for industrial use is provided for in Act No. 264/1999 Coll. in force.

**II.** The law on technical requirements for products and on conformity assessment regulates, *inter alia,* the procedures used by surveillance authorities (such as the Slovak Trade Inspection) to establish whether

a) a declaration of conformity was issued for specified products placed on the market or whether they are marked with conformity mark where so prescribed by technical regulations,

b) the properties of specified products placed on the market and the conformity assessment procedure correspond to the terms specified in the declaration of conformity,

c) conformity marks are used legally, and are not modified or counterfeited.

Specified products are those products that present an increased risk of endangering a legitimate interest (i.e. protection of life, health and property of citizens). Such products cannot be placed on the market unless it has been determined that their properties are in conformity with technical requirements.

In the framework of protective measures laid down by Act No. 264/1999 Coll., the supervisory authority can impose the following measures on business entities:

a) the suspension of placing products on the market for a specified period of time in case of a well-founded suspicion of the existence of a threat to legitimate concerns,

b) the prohibition to place products on the market, or the decision to withdraw these products from the market or from use in case if they manifestly present a threat to legitimate concerns,

c) the obligation to effectively and immediately bring the threat to the attention of persons that could be endangered by the use of such specified product, namely in cases when a protective measure was imposed pursuant to subparagraphs a) or b).

The competent supervisory authority has also the power to impose a fine on anyone who:

a) has used a conformity mark, a declaration of conformity, or a conformity certificate without authorisation or deceptively,

b) has placed on the market or distributed specified products without a declaration of conformity, conformity certificate or without marking specified products with conformity mark, or has placed a product on the market unlawfully,

c) has failed to comply with the terms of a protective measure.

The Office for Standardisation, Metrology and Testing is also authorised to impose fines. The Office shall impose a fine against a person who:

a) has marked a document with the designation of STN ,

b) has reproduced or distributed a Slovak technical standard,

c) has claimed to be an authorised person,

d) has issued a certificate.

Under the Convention on Marking of Plastic Explosives for the Purpose of Detection Purposes, which lays down an obligation to mark the entire stock of plastic explosives with a detection agent, the Ministry of Defence of the Slovak Republic has the task to destroy approx. 48,000 t of unmarked plastic explosives (Pl-Np-10 and Pl-Hx-30). This process will be implemented annually until 2013. The Ministry of Defence has announced a tender with a view to selecting a company to carry out the liquidation.

Moreover, under the 2004 amendment to the Criminal Code effective from 1 August 2004, "illegal arming and trafficking in arms" was established as a new type of criminal offence; its wording is attached as annex to this Report.

**B)**

The new Firearms and Ammunition Act No. 190/2003 Coll., which entered into effect on 1 January 2004, sets out the types and categories of firearms and ammunition, conditions for the acquisition, possession, carrying and use of firearms and ammunition, rights and obligations of persons possessing firearms and ammunition, conditions governing exports, imports or transit of firearms and ammunition, conditions governing the setting up and operation of shooting ranges, requirements for displaying firearms and ammunition, defines the operation of information systems relating to firearms and ammunition, overseeing compliance with the law, and lays down the sanctions for violations of obligations under the aforesaid law.

In particular, the new law on firearms and ammunition harmonises the legislation on firearms and ammunition with the legislation of the European Union and with other international commitments of the Slovak Republic, and puts in place legal instruments that enable the State to introduce adequate regulations in the area of firearms and ammunition, especially with regard to public interest in the protection of public order and security.

The firearms and ammunition law provides that business entities having their seat or place of business in the territory of the Slovak Republic, or business entities operating in the area of firearms and ammunition having the seat or place of business outside of the territory of the Slovak Republic can transport firearms and ammunition for export, import or transit purposes on the basis of a permit issued by the Document and Registration Department of the Police Force and by the Ministry of the Interior.

Written applications for transportation permits must contain:

- the name, seat and identification number of the applicant who carries out the sale,
- the name, seat and identification number of the applicant who buys firearms and ammunition,
- the address of the place where firearms and ammunition are to be dispatched or delivered,
- the type and number of transported weapons.

The business entity performing the transaction attaches to the application a certified copy of the official permit – licence; local entrepreneurs in Slovakia area issued the licence by the Ministry of Economy.

The Ministry of the Interior issues transportation permits, which give the abovementioned data, after it has examined the safety of the transportation of firearms and ammunition. Persons transporting firearms and ammunition must carry the permit on them during the transportation and present it to the police upon request.

Persons who are issued permits for transporting firearms and ammunition are obliged to notify the Ministry of the Interior of this fact in writing not later than seven days before the due date of transportation. The notification shall contain the following data:

- the exact date of the start and the end of transportation,
- the type of transportation, the means of transportation, data about the transporting entity, brand, calibre and manufacturing number of firearms, type and number of transported ammunition, its brand and calibre.

Sections 40 to 49 of the Act set out the conditions governing exports, imports or transit of firearms and ammunition by persons possessing firearms transportation notes, European firearms passes and by business entities. The Act lays down the obligation of any person exporting, importing or transiting firearms and ammunition across the border of the Slovak Republic to notify of this fact the police department that carries out border controls on the border crossing, and the customs office on the border crossing of the Slovak Republic; no such obligation is imposed on exports or imports carried out as deliveries. These persons must also present transportation permits.

Firearms and ammunition can be manufactured, handled or traded in the Slovak Republic only by business entities cleared by the National Security Office and by the Ministry of the Interior and possessing necessary permits for performing such activities.

As regards the exports of firearms and ammunition, the Ministry notifies the competent authority of the importer's country and of the transit countries of the European Union of the export and of the attached specifications of exported goods. In case of imports, the Ministry receives the same type of information from the competent body of the exporter's country.

The transit of firearms and ammunition through the territory of the Slovak Republic is notified to the central operational centre of the Police Force by the competent department of Police Force Presidium after it has carried out risk assessment.

According to the Slovak legislation, controls on transportation operations can be performed on the entire territory of the country, in customs warehouses and in the warehouses of individual business entities. Everybody who is involved in the control of firearms must be cleared by the National Security Office for at least at the "confidential" degree of secrecy.

As regards the exchange of information, the Police Force runs an information system containing data on:

- issued firearm permits and their holders,
- issued European firearm passes,
- issued firearm licences and their holders,
- issued purchase permits,
- registered firearms and issued weapon permits,
- exported or imported firearms,
- issued firearm transportation notes,

- permits to transport firearms and ammunition,
- lost or stolen firearms, firearm permits, firearm licences, weapon permits and firearm transport notes,
- seized, apprehended, withheld, surrendered, forfeited or confiscated weapons,
- destroyed firearms, damaged firearms, or firearms rendered inoperative,
- shooting ranges.

Pursuant to Section 66 of the Act, the Ministry of the Interior provides information on:

a) the transport of firearms and ammunition to a Member State of the European Union, to the territory or through the territory thereof; transport of firearms and ammunition by business entities having place of business or seat outside of the Slovak Republic; notification is provided during the transport at the latest,

b) the issuance of a permit for acquisition or possession of a category A firearm or a category B firearm to the relevant Member State of the European Union, in which resides the person to whom the permit was issued,

c) the acquisition of a category C firearm to the relevant Member State of the European Union, in which resides the person who acquired the firearm.

The Ministry of the Interior and police departments oversee compliance with the law and with its implementing regulations by the holders of firearm permits, firearms licences, European firearms passes, purchase permits, firearms transportation notes within their jurisdiction.

**C)**

In conformity with the legislation in force, data concerning persons brokering transactions involving firearms are entered into the licence for the export of controlled goods, i.e. dual-use goods and technologies in conformity with Council (EC) Regulation No. 1334/2000 setting up a Community regime for the control of dual-use items and technology. As regards military material, Act No. 179/1998 Coll. on Trading in Military Material as amended does not require that the data concerning the brokers be entered in the issued licence; they, however, must be specified in every licence application in order to enable its thorough evaluation.

As regards the issue of intermediaries, the Slovak Republic addresses this issue within the UN, OSCE, NATO and other platforms, for instance in connection with the implementation of the OSCE document on small arms and light weapons and the related documents on brokering (Vassenaar Agreement, fire arms protocols, etc.), where the position of the Slovak Republic is completely identical with that of the EU. Relevant statutory provisions that regulate the sharing of information with foreign partners can be found, e.g., in Act No. 215/2004 Coll. on the Protection of Classified Data. The Act provides that a classified fact is any information or item designated as such by the originator of the fact that must be protected, in the interest of the Slovak Republic, against its disclosure, abuse, distortion, unauthorised duplication, destruction, loss or theft, and which originates in the areas set out by the relevant ordinance of the Government of the Slovak Republic. According to Section 60 paragraph 2, classified facts concerning the Slovak Republic can be disclosed to a foreign power only in conformity with the international treaties that are binding on the Slovak Republic, or on the basis of the decisions of international organisations of which the Slovak Republic is a member, or where this is necessary in view of the principles applying in the framework of multilateral control regimes of which the Slovak Republic is a State party, provided this is not in conflict with another international treaty binding on the Slovak Republic. According to paragraph 3, the exchange of

classified information between the Slovak Republic and a foreign party is conducted in conformity with the international treaty, which is binding on the Slovak Republic.

The exchange of such information is normally provided for in individual disarmament treaties and documents (such as the OSCE document on small arms and light weapons, the register of conventional weapons, etc.), and/or various bilateral agreements between States.

**1.13**

Act No. 190/2003 Coll. on Firearms and Ammunition gives a detailed classification of the categories of firearms (A, B, C, D) and provides in its Section 4 that category A weapons are prohibited weapons, prohibited ammunition and prohibited weapon complements, further specifying in paragraph 2) that prohibited weapons are

a) military weapons,

b) automatic weapons,

c) weapons whose original character and form were altered in order to cause more serious consequences than they would prior to alteration, or weapons disguised as other objects,

d) firearms made from non-metallic material and unidentifiable by detection devices or X-ray machines,

e) firearms with permanently fixed silencers,

f) firearms with permanently fixed laser aim, aim designed on the night-vision principle, infra-radiator, electronic image amplification, or image reversal technology,

g) manufactured or altered firearms, except for authorised manufacture or alteration, firearms modified to make their criminological identification more difficult.

Pursuant to the firearms and ammunition act, the applicant – a natural person or a legal person – may apply in writing for an exemption from the prohibition to acquire and possess a category A firearm.

The application is filed with the competent district Police Force directorate, which issued the firearm permit or the firearm licence. The police department immediately sends the application to the Ministry of the Interior.

Based on the written application, the Ministry of the Interior may grant an exemption from the prohibition to acquire and possess a category A firearm for:

- collection purposes (collectionist item, national culture heritage item, item of museum value),
- design and manufacture of a category A firearm,
- the purpose of destroying firearms and ammunition, rendering them inoperative or manufacturing inoperative firearms and ammunition.

Applications for the exemption from the prohibition to acquire and possess firearms for collection purposes must be supported by expert opinions certifying that the firearms and ammunition, for which exemption is to be granted, are items of museum value.

Based on a written application, the Ministry of the Interior may grant the exemption from the prohibition to acquire and possess a category A firearm to the applicants who are in the business of transporting or protecting particularly dangerous consignments or valuable consignments, protecting buildings and facilities of strategic significance for the security of the State and for the fulfilment of international agreements that are binding on the Slovak Republic.

In such case, the application is sent to the Office for Private Security Services of the Police Force Presidium, which will perform the screening of the applicant and verify his integrity and reliability. The Office for Private Security Services will subsequently send its opinion concerning the applicant to the Ministry of the Interior that will issue a decision on granting or denying the exemption from the prohibition to acquire and possess a category A firearm.

The provisions of Section 8 paragraph 4 of the law on firearms and ammunition stipulate that the exemption can be granted only if this does not interfere with public security; exemption can be granted only for a specific period of time.

The validity of the exemption expires upon the expiry of validity of the firearm permit or firearm licence of its holder. When the grounds on which the exemption was granted cease to exist, the Ministry of the Interior withdraws the exemption.

**2. Assistance and counselling**

**Ad. 2.2.**

The Slovak Republic has already used legislative technical assistance of the UNODC which confirmed that its national legal provisions criminalize terrorism in conformity with paragraph 1(b) of the Resolution and with the requirements of the International Convention for the Suppression of the Financing of Terrorism; Slovakia expresses its determination to use, whenever necessary, all the forms of technical legislative assistance and counselling provided by the UNODC.

United Nations S/2005/93

Security Council

Distr.: General
22 February 2005

Original: English

# Letter dated 16 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 16 December 2004 (S/2004/1011). The Counter-Terrorism Committee has received the attached fifth report from Denmark submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

05-25655 (E) 120405

## Annex

### Letter dated 15 February 2005 from the Permanent Representative of Denmark to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In reply to your letter of 15 November 2004 requesting further information about Danish implementation of Security Council resolution 1373 (2001), I take pleasure in forwarding the enclosed report (see enclosure).

(*Signed*) Ellen Margrethe **Løj**
Ambassador
Permanent Representative of Denmark to the United Nations

**Enclosure***

# Denmark

## Fifth report submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001)

## Introduction

On 27 December 2001, 8 July 2002, 14 February 2003 and 12 February 2004 Denmark submitted reports pursuant to paragraph 6 of Security Council resolution 1337 (2001) to the Committee established by the Security Council – the Counter Terrorism Committee (CTC). In a letter dated 15 November 2004, the CTC has posed a number of further questions to the Danish Government regarding Denmark's fulfilment of UN Security Council Resolution 1373 (2001).

## Question 1

*The CTC should appreciate it if Denmark would provide it with information concerning any further action taken by Denmark to strengthen its counter-terrorism capacity and modalities for cooperation with other States to combat terrorism.*

The changed international security situation following 11 September 2001 has meant that the Danish Security Intelligence Service (PET) – as a supplement to its traditional investigational activities – has introduced new initiatives within the field of counter-terrorism.

PET has an overall two-legged strategy for the fight against and prevention of terrorism on Danish soil:

- A further strengthening of PET's investigations – the operational and surveillance related activities.
- A further strengthening of PET's external co-ordinating role – to strengthen the overall resistance of society.

Endeavours have been made to plan the operational activities in an effective and pro-active manner. Essentially, PET has access to the same investigative means and methods as the rest of the police: register checks, enquiries with other authorities and the various forms of interception

* Annexes are on file with the Secretariat and are available for consultation.

mentioned in the criminal procedure regulations of the Danish Administration of Justice Act, e.g. telephone interception, bugging and secret searches. In addition PET has a wider access to the use of civilian agents (sources) than the rest of the police, and co-operates with foreign security and intelligence services.

It takes wide-ranging and co-ordinated efforts from a wide range of authorities to protect Denmark against possible terrorist attacks on an effective and long-term basis. Co-operation fora have therefore been established between a number of public authorities and private actors in order to increase the overall resistance of society in a general and efficient manner.

Several authorities, engaged in different aspects of the overall counter terrorism efforts, meet within the so-called Counter-terrorism Contact Group. Apart from a targeted effort to prevent terrorism, the purpose of this group is also to guarantee a well-founded basis for PET's risk assessments and the communication of these assessments. Furthermore, similar groups have been established both within the private sector (consisting of the relevant business associations) and within the IT area.

In the aftermath of the terrorist attacks in Madrid on 11 March 2004 additional resources were allocated to PET in order to guarantee a continued implementation and further development of the strengthened efforts against terrorism. Following the additional resources PET has experienced an increase in the number of employees, including university graduates who specialise in, among other things, security political analysis and Middle East studies. The purpose has been to strengthen the qualitative basis of the operational efforts and to be able to provide high quality operational and strategic analyses. Thus, the counter-terrorism section has been considerably strengthened.

Furthermore, the additional resources will, among other things, be used to obtain a coherent and up-to-date IT platform and a technical upgrading in connection with the handling of surveillance and investigational tasks, e.g. within the IT and telecommunication areas.

In continuation of the abovementioned increase in resources a new organisational structure, which is to support PET's overall strategy, has also been implemented.

The aim of this structural change has been to establish a simpler and more efficient structure which is to guarantee that PET may focus as much as possible on handling the varied demands posed by the complex nature of the existing threat, to support the broad diversity of the staff and to strengthen PET's intersectorial and project-oriented work method.

Furthermore, the structural change has led to the establishment of a new section responsible for various forms of preventive security and vulnerability issues in connection with e.g. critical infrastructure as well as matters concerning emergency management. This section has been

established as a consequence of the increasing importance of this area seen in relation to the prevention of terrorism, and the aim is – through an overall and targeted approach – to strengthen the external and security related co-ordinating profile of PET. The section is, thus, responsible for maritime security, aviation security, physical security, personnel security, IT security, emergency management, threat assessments and a newly established situation centre.

In connection with the structural change focus has also been placed on the strategic analysis and development as well as the strategic communication seen in an international perspective. PET, thus, continuously looks for new international partners in order to keep developing communication with other states to improve the general view of the international security political situation in order to prevent terrorist attacks.

## Question 2

*The CTC should also appreciate if Denmark would provide the CTC with an update of the process being undertaken, referred to in Denmark's prior reports, to ensure that appropriate legal and administrative measures in the field of counter terrorism are adopted and applied by the Faroe Islands and Greenland.*

As it is stated in previous reports, the Ministry of Justice and representatives from the Faroe Home Rule have been discussing how to ensure full and complete compliance with Resolution 1373 (2001) in connection with negotiations concerning the possible transfer of the responsibility for police- and administration of justice affairs to the Faroe Home Rule. However, no conclusions have come out of these discussions up till now.

Terrorist acts are punishable under the Faroese Criminal Code under a variety of different provisions on, *inter alia*, homicide, arson, deprivation of liberty, hijacking, etc., as well as under the general provisions on crimes against the constitution and the supreme authorities of the state. Financing of terrorism may be punished as contribution to the commission of a terrorist act. However, some of the Conventions mentioned in article 3(d) of Resolution 1373 (2001) as well as the resolution itself have not yet been fully implemented.

The implementation of Resolution 1373 (2001) is a matter of high priority. Therefore, and since progress has shown to be slow in the negotiations concerning the possible transfer of the responsibility for police- and administration of justice affairs to the Faroe Home Rule, the Ministry of Justice intends to take further steps to ensure the full implementation of Resolution 1373 (2001) irrespective of the status of these negotiations. The ministry will contact the Faroe Home Rule to that effect.

As for Greenland, the report from the Commission on Greenland's Judicial System came out this summer. The report contains proposals on several aspects of the judicial system in Greenland.

Of relevance to the implementation of Resolution 1373 (2001) is the proposal to take over the Danish Criminal Code provisions on terrorism and financing thereof and other crimes against the constitution and the supreme authorities of the state, including articles 114-114b of the Danish Criminal Code.

Furthermore, it is recommended to insert a provision corresponding to article 77a of the Danish Criminal Code as amended by the Anti-Terrorism Act of June 2002, in order to make it possible to carry out confiscation of money and other property (and not just "objects") feared to be used to commit crimes.

Furthermore, it is proposed to take over the Danish Administration of Justice Act's provisions on seizure (articles 801 to 807d) as amended by the Anti-Terrorism Act of June 2002.

The report has been submitted to the relevant institutions and organisations as well as the Greenland Home Rule for comments. The comments from the Greenland Home Rule are expected in April 2005.

Once the comments from the Greenland Home Rule have been received, the Danish Ministry of Justice will examine the proposed revision of the Special Criminal Code and the Special Administration of Justice Act in order to ensure that all requirements in Resolution 1373 (2001) will be fully implemented. As it appears, implementation of the proposals contained in the report will imply complete implementation of Resolution 1373 (2001) in Greenland in as far as the Criminal Code and the Administration of Justice Act is concerned.

The current Danish Act on Measures to Prevent Money Laundering and Financing of Terrorism (The Act on Money Laundering) is not in force on the Faroe Islands or in Greenland. Only the 1993 version of this Act applies to these territories through a Royal Decree. This means that only the measures to prevent money laundering apply in these territories at the moment.

However, the current Danish Act on Money Laundering is going through a radical revision as a result of the 40 revised FATF recommendations and the proposal for a 3rd EU-Directive on Money Laundering and Terrorist Financing. This new Act is scheduled to enter into force by a Royal Decree on both the Faroe Islands and in Greenland in 2006. Before this revised Act can enter into force in these territories, the Act must be presented to the Faroe and the Greenland Home Rules respectively for adoption/an opinion, depending on the nature of the rules. The revised Act must also be adopted by the Danish Parliament before being submitted to the Faroe and the Greenland Home Rules for adoption.

Currently, there is an ongoing and thorough dialogue with both these territories concerning the implementation of this proposal.

**Question 3**

*The CTC should further appreciate if Denmark would share with it any assessments or evaluations, especially those related to operational measures, in connection with the implementation of the Resolution, that are carried out by any international or regional institution or organisation.*

The Council of the European Union on 28 November 2002 decided to introduce a peer evaluation system of the national measures used in the fight against terrorism. The first evaluation of Denmark within the area of "Law Enforcement/Intelligence Co-ordination" was carried out in November 2003.

**Question 4**

*The CTC takes note of Denmark's offer of assistance and provision of assistance to help other States to implement Resolution 1373. Denmark's offer of assistance is posted on the CTC's Directory of Assistance (www.un.org/sc/ctc), which is frequently updated to include new relevant information on available assistance. The CTC would appreciate receiving any available updates to the information that Denmark has already provided.*

Denmark is of the opinion that development cooperation plays an important role in combating terrorism and implementing the Resolution. In February 2004 the Danish Ministry of Foreign Affairs presented "Principles Governing Danish Development Assistance for the Fight against the New Terrorism" which sets out the guiding principles governing the Danish development assistance in this area. With this program, Denmark has earmarked DKK 145 million for new counter-terrorism efforts in the period 2004-2006, including DKK 30 million to assisting selected developing countries in connection with the implementation of the obligations spelled out in Security Council Resolution 1373 and to strengthening the work of the CTC. Denmark regularly informs the CTC of assistance it is currently providing to help other States to implement the Resolution. Denmark will also provide updates to its offer of assistance posted on the CTC's Directory of Assistance.